

Notice of Allowability

Application No.

10/081,644

Examiner

Zachariah Lucas

Applicant(s)

YAMAMOTO ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview of March 30, 2004.
2. ☒ The allowed claim(s) is/are 31-33, 51, 54 and 55.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 3-30-2004.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. In the prior action, mailed on February 24, 2004, the rejections of claims 43-52, and 56-58 were made Final, claim 53 was objected to, and claims 54 and 55 were allowed. The Applicant called the Examiner on March 30, 2004 with the result that claims 31-33, and 51 were amended as described below; and the claims other than claims 31-33, 51, 54, and 55 were cancelled from the application. In view of these amendments, claims 31-33, 51, 54, and 55 are allowed.

2. Claims 51, 54, and 55 (as amended below) are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 31-33 (also as amended below), directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Process claims 31-33 hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 34-42, not directed to the process of making or using the patentable product, will not be rejoined.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Reed on March 30, 2004.

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The application has been amended as follows:

On page 11, line 21, the application is amended such that the term polypeptide in the phrase “polypeptide includes a nucleotide sequence...” is deleted, and replaced by the term - - polynucleotide- -.

On page 12, line 14, the term “have” in the phrase “polynucleotides that have the amino acid sequence...” is deleted, and replaced with the term - - encode- -.

Claims 34-50, 52, 53, and 56-58 are cancelled from the application.

Claim 31 is amended such that it now depends from claim 51. (i.e. the numeral “1” is cancelled from line 3 of the claim, and substituted with the numeral - - 51- -.)

Claim 32 is amended such that it now depends from claim 54. (i.e. the numeral “16” is cancelled from line 3 of the claim, and substituted with the numeral - - 54- -.)

Claim 33 is amended such that it now depends from claim 55. (i.e. the numeral “17” is cancelled from line 3 of the claim, and substituted with the numeral - - 55- -.)

Claim 51 is amended as follows:

In line 1 of the claim, the phrase “An isolated polypeptide” is cancelled and replaced by the phrase - - An isolated Kluyveromyces lactis reductase- -.

In line 1 of the claim, the term “polypeptide” in the phrase “wherein the polypeptide is an enone reductase” is deleted, and substituted with the term - - reductase- -.

The amendments to the specification were made to correct errors noted in the objections to the specification in the prior action.

Claims 34-50, 52, 53, and 56-58 were cancelled to bring the case into condition for immediate allowance.

Claims 31-33 were amended to limit the claimed methods to embodiments of using the allowed products of claims 51, 54, and 55.

Claim 51 was amended to incorporate the limitations of claim 53, which was indicated as allowable in the prior action.

4. The following is an examiner's statement of reasons for allowance: in view of the cancellation of the claims, and the amendments above, the outstanding rejections have been overcome. The claims have been limited to the claimed products indicated as allowable in the prior action, and claims reading on methods of using such products have been rejoined to the application and allowed.

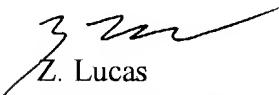
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

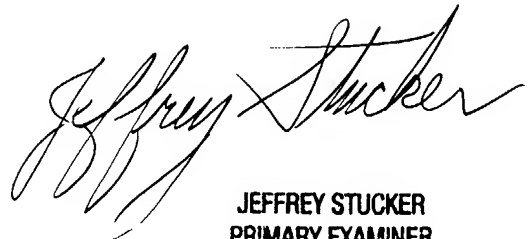
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Z. Lucas
Patent Examiner



JEFFREY STUCKER
PRIMARY EXAMINER